

District Court of Payne County, State of Oklahoma;

- (2) Sandra Knigge, as Personal Representative for Nicholas Knigge, et. al. v. William Daniel, et. al., Case Number CJ-04-499 in the District Court of Payne County, State of Oklahoma;
- (3) Brad Piccolo v. William Daniel, et. al., Case Number CJ-04-456 in the District Court of Payne County, State of Oklahoma; and
- (4) John Cooper v. William Daniel, et. al., Case Number CJ-2004-480 in the District Court of Payne County, State of Oklahoma.

These lawsuits are collectively referred to herein as the "Lawsuits." Timothy Daniel, as Special Administrator of the Estate of William Daniel, has been substituted for William Daniel in each of these lawsuits.

4. The Lawsuits arise from a helicopter crash that occurred in Payne County, Oklahoma. Venue is therefore proper in this court.

5. This court has jurisdiction over the subject matter of the claims in this action pursuant 28 U.S.C. § 1332, because there is complete diversity of citizenship, and the amount and controversy, in each one of the Lawsuits, exclusive of interests and costs, exceeds \$75,000.00. The liability insurance limit on Mr. Daniel's homeowners policy is \$500,000.00. Ben Han, Brad Piccolo and John Cooper sustained serious bodily injuries in the helicopter crash. Nicholas Knigge died as a result of the helicopter crash, and was survived by his wife, Lisa Knigge, now

deceased, and four children.

6. This court has jurisdiction to enter a declaratory judgment in this matter pursuant to 28 U.S.C.A. § 2201. As is set forth fully below, there currently exists an actual case in controversy between the parties.

GENERAL ALLEGATIONS

7. At all relevant times, William Daniel was the named insured for policy number 08911851047, a homeowners policy issued by Farmers that covered real property located in Oklahoma County, Oklahoma. A certified copy of the policy is attached as Exhibit "1" and is fully incorporated by reference.

8. On June 24, 2004, Mr. Daniel attended a birthday party in Cushing, Oklahoma. Mr. Daniel hired Interstate Helicopter to provide site-seeing helicopter tours for individuals attending the party. Ben Han, Brad Piccolo, Nicholas Knigge and John Cooper were guests at the party, and were passengers in the helicopter when it crashed.

9. Thereafter, the Lawsuits were filed against Mr. Daniel.

10. Farmers has received notice of the Lawsuits and Mr. Daniel requested that Farmers provide coverage to him for the claims that are asserted against him in the Lawsuits.

11. After his request for coverage, Mr. Daniel died. Timothy Daniel has been appointed as the Special Administrator of Mr. Daniel's estate, and is now the named defendant in the Lawsuits. Timothy Daniel is the proper party to represent the interests of Mr. Daniel's estate in this action.

12. The terms of the policy do not provide coverage for the

Lawsuits, either for defense of indemnity, to Mr. Daniel's estate, because the policy excludes coverage for claims arising from the ownership, maintenance, use or entrustment of an aircraft. The Lawsuits arise from a helicopter crash.

13. William Daniel, an attorney, rented the helicopter for purposes of networking with clients. The policy excludes liability coverage for business pursuits and further excludes coverage for claims arising from the rendering or failure to render business of professional services.

14. The Lawsuits include claims for punitive damages, which is an excluded element of damages under the policy.

CLAIM FOR RELIEF - REQUEST FOR DECLARATORY JUDGMENT

15. Farmers adopts and incorporates by referencing all of the preceding paragraphs.

16. This claim for relief states a cause of action for a declaratory judgment pursuant to 28 U.S.C. § 2201.

17. There currently exists between the parties an actual controversy regarding whether, or to what extent, Farmers is obligated to defend and indemnify Timothy Daniel, as Special Administrator of the Estate of William Daniel, in the Lawsuits.

18. Defendants Ben Han, Brad Piccolo, John Cooper and Sandra Knigge, Personal Representative of the Estates of Nicholas Lee Knigge and Lisa Fern Knigge, and as guardian and next friend of A.F.K., L.R.K., M.N.K. and Christopher Lee Knigge, are necessary, interested parties to the insurance coverage dispute, because they ultimately could contend that Farmers provides coverage for a judgment that they may obtain against Timothy Daniel, as Special

Administrator of the Estate of William Daniel.

19. This court should declare that Farmers is not obligated to defend or indemnify Timothy Daniel, as Special Administrator of the Estate of William Daniel, in the Lawsuits.

WHEREFORE, premises considered, Farmers Insurance Company, Inc., prays that the court grant the following relief:

- a. Enter an Order declaring that Farmers is not required to defend or indemnify Timothy Daniel, as Special Administrator of the Estate of William Daniel, in the Lawsuits; and
- b. Grant Farmers all costs allowed by law, possibly including an attorney fee, and grant such further relief that this court deems just and equitable.

Respectfully submitted,

TAYLOR, RYAN, SCHMIDT & VAN DALSEM, P.C.

By s/Neil D. Van Dalsem

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